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# NOTE ON INTERNATIONAL PROTECTION

## I. INTRODUCTION

1. The purpose of the High Commissioner's annual Note on International Protection is to report on major protection challenges over the period in question and on how they have been addressed. This year, the Note takes as its frame the Agenda for Protection (issued as Addendum 1), which consolidates the results and sets out the goals and objectives emerging from the Global Consultations on International Protection held during 2001-02. In doing so, the Note makes clear the direct links between the Agenda and contemporary protection challenges confronting individuals, States and UNHCR. The Agenda has its roots in, and is directly relevant to, the management of the spectrum of refugee protection challenges today.

2. As the Agenda makes clear, the purpose of the Global Consultations process was to provoke both reflection and action to revitalize the international refugee protection regime, at the centre of which lies the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. The process was also intended to equip States better to address the challenges in a spirit of dialogue and cooperation. Broad-based participation in the Consultations was one key to ensuring an Agenda with a breadth of coverage predicated on clear appreciation of State interests, of refugee needs in an increasingly globalized world, and of the possibilities and difficulties of reconciling them in the current environment.

3. Overall, the Global Consultations process did generate better understanding of, and a more cooperative spirit in tackling refugee issues. It rekindled interest in multilateral dialogue to find solutions to an increasingly internationalized set of problems. The process confirmed an important degree of willingness to pool concerns and jointly point the way forward to the durable resolution of problems, to which solutions are within collective reach. Moreover, brought into sharper focus, the need for greater

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activity and predictability as regards burden and responsibility-sharing. Dilemmas confronting States in constructing efficient, expeditious and fair asylum procedures, and those facing refugees seeking to access them, as well as the host of problems which arise in mass influx situations or from the asylum/migration nexus were prominent in discussions. The specific problems confronting women and children refugees were explicit and cross-cutting. The Agenda is the direct and tangible outcome of this process.

4. The developments reported in the following pages are grouped under headings, which reflect the six main goals contained in the Agenda, and illustrate, although not exhaustively, the seriousness of this challenge. The order chosen for the purposes of this Note is designed to highlight issues of topical concern.

## II. ADDRESSING SECURITY-RELATED CONCERNS MORE EFFECTIVELY

5. The Agenda for Protection stresses the security of refugees as a central concern. During the reporting period, securing the situation of asylum-seekers and refugees proved particularly difficult in a number of countries across the world plagued by war and civil strife, attacks on camps, forcible recruitment of refugees, periodic *refoulement*, closed borders, or insecurity in urban and camp environments for particularly vulnerable persons, especially among women, children and the elderly. The militarization of refugee camps also remained a key challenge. The breakdown in social and cultural structures and norms, separation from and loss of family members and community support, and tolerance of impunity for perpetrators of crimes and violence were exacerbating features, as frequently occurs in many refugee situations.

### A. The safety of refugees and separation of armed elements from refugee populations

6. Over the last year, asylum-seekers and refugees in many countries throughout the world faced increasingly frequent attack, arrest, abduction, mass round-up and detention, deportation, and even murder, including of children. Such incidents seriously undermined the safety of refugees and contributed in some instances to the broader problem of secondary onward movement, since protection in the host country could not or could no longer be assured.

7. Another concern remained how to ensure the civilian and humanitarian nature of asylum, primary responsibility for which resides with the host State. By way of example, one approach adopted during the reporting period concerned some 26,000 refugees, who had arrived in the Democratic Republic of the Congo in mid-2001, had found temporary accommodation among the local population of a border town, and were known to include armed elements. UNHCR took the initiative to involve both the United Nations peacekeeping mission in the country and the local authorities in carrying out a separation exercise beginning in October 2001. As a result, some 2,500 ex-combatants and their families were transferred to a camp 150 km from the border at the end of the year, while the civilians were relocated 30 km from the town by mid-February 2002.

8. Security concerns can also be relevant when refugees return to their countries of origin. In Afghanistan, for instance, which experienced by far the largest return movement during the reporting period, the security situation in many areas remained poor. Factional fighting between warlords continued and there was crime and banditry, not to mention large quantities of land mines and unexploded ordnance.[1] Disarmament was at best an elusive long-term aim as men and boys returned to villages with guns and no job prospects, while unresolved, long-standing inter-ethnic tensions and conflicts generated new movements of refugees and internally displaced persons (IDPs). In response, UNHCR has been undertaking information and mine awareness programmes for returnees, and in the north has been actively pursuing the creation of a high-level return commission involving all main stakeholders to enable the safe return of the forcibly displaced.

9. In other regions, a number of Latin American States took measures during the reporting period to enhance security by establishing safe reception facilities at an adequate distance from the border for refugees fleeing civil war in Colombia, so as to avoid armed incursions endangering refugees' security. In other situations, registration and re-registration exercises helped to reinforce the civilian character of the refugee population, as well as contribute to establish accurate statistics, and facilitate the protection of those in need. More generally, in the context of post-conflict situations, the World Bank, the United Nations Development Programme (UNDP), and the international community have cooperated more concertedly on the issue of ex-combatants to facilitate "demilitarization, demobilization, reintegration and rehabilitation".

## B. Prevention of military recruitment of refugees

10. Measures to prevent the military recruitment of refugees, including adolescents and children, affect more than just these individuals and have a long-term impact on whole societies. Important standards in this respect are set out in the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which entered into force in February 2002. UNHCR offices worldwide have been instructed to assist the United Nations Children's Fund (UNICEF) in efforts to promote ratification of the Optional Protocol and to protect children against forced recruitment.

11. Efforts to rehabilitate and reintegrate former child soldiers into their communities undertaken by UNHCR, UNICEF and other partners during the year to mid-2002 included non-formal education, skills training, and income-generating activities. Family reunification also proved key to successful rehabilitation of child soldiers. Positive initiatives in Africa included, a UNHCR-supported child welfare committee and youth social clubs in Liberia. When made aware of military recruitment efforts by an armed opposition group, the committee visited each household to speak with families and children. In neighbouring Sierra Leone, a UNHCR-funded local NGO provided foster care and other forms of alternative care for returnee children, including ex-combatants, pending tracing and family reunification and for

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[1] See also report of 11 July 2002, of the Security Council, "The Situation in Afghanistan and its Implications for International Peace and Security: Report of the Secretary-General", (A/56/1000-S/2002/737). See also, section VI.A below for more details on voluntary returns to Afghanistan.

those children who were unable to unite with their families or community. In Asia and East Africa, initiatives to raise community awareness of the rights and needs of such children were also undertaken. In Sri Lanka, for instance, UNHCR and UNICEF cooperated in the project "children as zones of peace", which fostered activities to reduce the risk of child recruitment.

### C. Prevention of age-based and sexual and gender-based violence

12. Flight - especially from armed conflict - increases vulnerability, particularly to violence. Those more vulnerable are women at risk, the elderly and children, notably separated children. Gender tends to be the most significant factor in the perpetration of violence against women and girls, but other factors include class, race, poverty level, ethnicity and age. Gender-based violence manifests itself in various forms, including sexual and other physical violence, forced prostitution, various other forms of sexual exploitation, enforced sterilization, domestic violence, forced conscription of boys, and trafficking.[2]

13. The sexual exploitation of refugee women and children received unprecedented attention in 2002 after a UNHCR-Save the Children UK report alleged sexual exploitation of young refugees in West Africa by both peacekeeping forces and humanitarian workers. Such sexual exploitation is a very real problem, not only in West Africa but elsewhere. It becomes possible not least because of unequal power relationships that are exacerbated in refugee situations. Economic and social inequalities confronting women and children make the situation worse, as does inadequate assistance.

14. UNHCR's response has been well-documented. In summary, the Office immediately despatched high level teams to West Africa to investigate and address the issue. Measures in response have included renewed and enhanced training of staff and partners, deployment of additional protection and community services staff and reinforced implementation of existing UNHCR guidelines. In addition, the United Nations' Office of Internal Oversight Services (OIOS) launched an investigation into the allegations. UNHCR has actively participated in the work of an Inter-Agency Standing Committee (IASC) task force on sexual exploitation, tasked with drafting a policy on sexual exploitation. The focus has been on assisting survivors of abuse, drafting a code of conduct and standards of behaviour for staff and humanitarian workers, and improving mechanisms and capacity to prevent sexual exploitation and abuse.

15. Subsequent and more general activities in West Africa have, for example, included awareness raising activities for staff and refugees on human rights and HIV/AIDS, workshops on preventing and responding to sexual and gender-based violence, advocacy on equitable legislation, establishment of counselling services and camp-based police stations, and increased numbers of female food distribution clerks. While these actions were focused primarily on women and children, men also had a role to play. In Guinea, for instance, UNHCR fostered the establishment of a men's association for gender equality in late 2001 to help combat violence against women in the camps. It

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[2] Of relevance in this context is the 2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography which entered into force in January 2002.

now has over 60 men representing different sectors of the refugee community, and is working to form similar groups elsewhere in the country and to establish links with another men's gender equality group in Kenya.

16. In Eastern Europe, where domestic violence is an issue of concern, UNHCR has conducted an in-depth study and developed a response plan to enable protection staff to improve assistance to survivors of domestic violence. Activities in Central European countries have included programmes to ensure that therapists are made available for survivors of sexual violence and exploitation. In the Americas, also by way of example, partnerships with specialized NGOs have been entered into, and support given for legal aid which has effectively assisted refugee women who were survivors of domestic and sexual violence. In Central America, UNHCR has conducted extensive awareness raising campaigns directed at preventing sexual and gender-based violence, and the organization has been active in several Asian countries, in field-testing revised guidelines on the problem.

17. An independent evaluation of UNHCR's activities to promote the rights and protection of children published in May 2002, welcomed the work on sexual and gender-based violence undertaken by various offices in West and East Africa, but found less focus on sexual exploitation, particularly that of adolescents and children under 18.[3] Another independent evaluation of UNHCR's policy on refugee women, also published in May 2002, acknowledged that new policies and procedures to address these issues were being developed and noted that "the challenge will be to implement these … in the field, not just in West Africa, but around the world".[4] The UNHCR-Save the Children UK report and the activities it prompted contributed substantially to raising awareness and the level of alertness on the part of UNHCR about situations particularly susceptible to sexual exploitation. UNHCR offices on all continents have been tasked with reinforcing their activities to prevent this happening and to assist survivors if it should occur.

## III. PROTECTING REFUGEES WITHIN BROADER MIGRATION MOVEMENTS

18. The Agenda's goal of protecting refugees within broader migration movements incorporates suggestions as to how States, UNHCR, NGOs, and other actors can uphold international refugee protection responsibilities, while respecting their need to manage migration challenges effectively. The increasingly complex nature of migration movements, characterized as they are by composite flows that include asylum-seekers, refugees, migrant workers, victims of environmental degradation or people in search of better life opportunities, has continued to throw up numerous problems for States, UNHCR and other actors during the reporting period.

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[3] Valid International, "Meeting the Rights and Protection Needs of Refugee Children: An Independent Evaluation of the Impact of UNHCR's Activities", May 2002, p. 14. See also, section VII.B below.

[4] Women's Commission for Refugee Women and Children, "UNHCR Policy on Refugee Women and Children and Guidelines on their Protection: An Assessment of Ten Years of Implementation", May 2002, p. 75. See also, UNHCR, "Prevention and Response to Sexual and Gender-based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, Geneva", Sept. 2001; Norwegian Institute of International Affairs, "Improving the Security of Refugee and Displaced Women: Conference Proceedings", Oslo, Jan. 2002.

## A. Refugee protection and migration management

19. The tension arising in mixed migration flow situations between States' refugee protection responsibilities and concerns about irregular population movements continued to hamper protection efforts. Migration control measures have included reinforcing visa regimes, imposing carrier sanctions, pre-boarding and pre-disembarkation document checks and other interception measures, using infrared cameras to detect clandestine passengers at borders and ports, and increased resort to first asylum country and safe third country concepts. In some cases, the effect of some of these measures has led to non-admission of asylum-seekers and refugees, denial of access to an asylum procedure, and incidents of *refoulement*. Of particular concern has been the apparent increase in instances of return of asylum-seekers to so-called "safe third countries" without any formal arrangements for their reception. In some States, all illegal entrants were indiscriminately subject to deportation, regardless of feared persecution. In other countries, UNHCR was not permitted access to border regions, and was therefore unable to verify the treatment of those seeking to enter. In various European and Latin American countries, however, UNHCR was enabled to increase border monitoring so that asylum-seekers could have access to appropriate procedures. Problems did persist, however, especially with screening procedures for so-called manifestly unfounded cases.

20. The problem of access to territory and procedures for those arriving by sea had a particular focus during the reporting period in the light of some highly publicized incidents, including the rescue-at-sea of some 430 asylum-seekers from a sinking vessel in the Indian Ocean in August 2001.[5] Refusal by States to disembark those rescued or sometimes even to come to the rescue was on occasion a serious problem. There were other States, however, which continued during the reporting period to uphold the accepted maritime practice of permitting sometimes larger numbers of people, rescued for instance in the Mediterranean, to disembark on their territory. UNHCR responded through diplomatic channels where those rescued sought asylum, basing its approaches on the Executive Committee's pronouncements that States should admit asylum-seekers at least on a temporary basis,[6] and suggesting practical ways to ease the burden on particularly affected States.

21. In March 2002, UNHCR convened an expert roundtable on rescue-at-sea in Lisbon, Portugal, bringing together experts from governments, the shipping industry, international organizations, NGOs and academia. The meeting was organized partly in response to a plethora of representations to UNHCR from the shipping industry, seeking assistance in bolstering the time-honoured tradition of rescue of persons in distress at sea against what were presented as very serious incursions. Its purpose was also to introduce greater clarity into the debate on responsibilities. This meeting produced a set of

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[5] This year's Nansen award went to the captain, crew and owner of the vessel rescuing them.

[6] See *inter alia*, Executive Committee Conclusions:"Refugees without an asylum country" (1979) (A/AC.96/572, para. 72 (2) (c)); "Protection of asylum seekers in situations of large-scale influx" (1981) (A/AC.96/601, para. 57 (2) II.A.1.); "Problems related to the rescue of asylum seekers in distress at sea" (1981) (A/AC.96/601, para. 57 (3) 3.).

conclusions on rescue-at-sea and disembarkation,[7] and served to share reflections on a potential international cooperative framework on this issue. UNHCR has subsequently strengthened cooperation with other actors concerned with this issue under the auspices of an inter-agency review group led by the International Maritime Organization (IMO). At its first meeting in July 2002, this group broadly supported the conclusions of the roundtable in Lisbon.

22. More generally, information campaigns aimed at potential migrants have been identified as being key to wider efforts to combat illegal migration whilst upholding refugee protection. States have taken a lead in such campaigns, and UNHCR has participated, ensuring that the asylum component is accurately reflected.

23. UNHCR has also participated actively in a number of regional migration fora, encouraging inclusion of the asylum component in broader strategies for effective migration management. In the Americas, the seventh regional conference on migration (also known as the "Puebla process") held in Guatemala, in May 2002, included various provisions in its plan of action which relate directly to refugees. The plan, *inter alia*, urged participating States to strengthen their cooperation with UNHCR to ensure adequate training of border and immigration officials on aspects of asylum legislation and refugee rights in general, thus acknowledging that effective border control can respect protection principles.

24. In Europe, UNHCR continued to play an active role in the debate on harmonization of asylum and migration systems within the European Union. The Conclusions of the Seville European Council meeting in June 2002, recognized that measures taken in the short and medium term to manage migration flows must strike a fair balance between, on the one hand, an integration policy for lawfully resident immigrants and an asylum policy in accordance with international refugee instruments and, on the other, resolute action to combat illegal immigration, smuggling and trafficking in human beings. As the High Commissioner said at the time of the summit, "effective and durable solutions to these problems are at hand, but can only be effective if the whole 'chain' of displacement is addressed". He added that in the case of Europe, it was not enough to concentrate on policy measures within the EU and on its borders. Solutions had also to be found in regions of origin and transit, and required political and financial support if refugees were not to end up moving on in search of effective protection.

25. In terms of integrated inter-agency approaches, mention should be made of UNHCR's participation in the migration and asylum initiative of the Stability Pact for South Eastern Europe, leading to concrete input into the elaboration of national action plans on this issue. Progress has included the completion in Croatia of work on a migration and asylum plan, which now requires implementation. In Bosnia and Herzegovina, a working group on immigration and asylum brought together the various national and international actors concerned to work on asylum legislation and associated regulations. In Albania, a memorandum of understanding between UNHCR and the

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[7] See UNHCR expert roundtable on rescue-at-sea, Specific Aspects Relating to the Protection of Asylum-seekers and Refugees, Lisbon 25-26 March 2002, Summary of Discussions, 11 April 2002.

authorities formalized the operation of an initial screening mechanism designed to ensure the correct channelling of individuals - whether they were asylum-seekers, victims of trafficking or other categories of migrants - towards the institutions best equipped to respond to their needs.

## B. International efforts to combat smuggling and trafficking

26. The growing international consensus on the threat posed by the smuggling and trafficking of human beings has galvanized efforts to combat these crimes. UNHCR supports these efforts strongly, even while it has consistently advocated the incorporation of victim protection mechanisms in all measures designed to combat these phenomena. This is not least due to concerns that refugees are among those who fall prey to these crimes. The saving clauses incorporated into the two Protocols of the United Nations Convention against Transnational Organized Crime on the Trafficking and on the Smuggling of Persons reflect the interest of States in giving due regard to the needs of victims.[8] The Agenda for Protection highlights the importance of accession to these instruments and UNHCR has continued to work with a number of States to ensure that national anti-smuggling and anti-trafficking legislation takes account of the legal definitions and saving clauses contained in the Protocols.

27. In part in response to events in the Asia-Pacific, a regional ministerial conference on people smuggling, trafficking in persons and related transnational crime was held in Bali, Indonesia, in February 2002. UNHCR has also been working with States on the development of comprehensive responses to secondary movements in the Asia-Pacific region. In Europe, there was, too, an increased focus on these issues during the reporting period. Some States introduced or reinforced legislation designed to prevent irregular migration and combat smuggling and trafficking, which resulted in a tightening of access to territory and asylum procedures, particularly in western Europe. At the regional level, the EU approved instruments on the harmonization of carrier sanctions, illegal immigration and trafficking of human beings.[9] In the North American context, a new US "T-visa" for the protection of victims of trafficking was introduced. At the same time, courts in various European and North American jurisdictions have begun to recognize the international refugee protection needs of those victims of trafficking who may be subjected to persecution if returned.

28. As regards other related developments, in West Africa, for instance, concerns about the trafficking of children have led UNHCR to work closely with governments and concerned agencies to develop awareness campaigns. More

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[8] The Convention and Protocols were opened for signature in Palermo in November 2000. As of 1 Aug. 2002, the Convention had 18 ratifications (including 12 in 2002); the trafficking protocol had 14 (including 10 in 2002); the smuggling protocol had 13 (including nine in 2002). Each instrument requires 40 ratifications to enter into force.

[9] See *inter alia*, Council Directive 2001/51/EC harmonizing penalties against carriers transporting undocumented passengers, 28 June 2001; European Commission Communication on a Common Policy on Illegal Immigration, COM(2001) 672 final, 15 Nov. 2001; Council Proposal for a comprehensive plan to combat illegal immigration and trafficking of human beings in the EU, 27-28 February 2002; Council Framework Decision on combating trafficking in human beings, 19 July 2002.

generally, UNHCR's co-chairing with the International Labour Organization (ILO) of the Geneva-based Intergovernmental Organization Contact Group on Human Trafficking and Migrant Smuggling constituted another mechanism to promote information sharing and facilitate inter-agency cooperation in this area.

### C. Reduction of irregular or secondary movements

29. In a number of countries of first asylum in different regions, refugees were unable to gain effective protection, due to a lack of formal recognition, proper documentation, a sustainable livelihood, a secondary persecution threat, or other factors, thus causing them to seek protection elsewhere. In other situations, the motivation for onward movement is primarily for economic betterment. Many of the burden- and responsibility-sharing measures which can enhance protection and assistance, and thus reduce the likelihood of flight or of onward secondary movement from countries of first asylum, need to be further explored and operationalized. In a move to enhance understanding of these issues, UNHCR commissioned an expert analysis of effective protection, clarifying the concept and assessing the elements needed before such protection can be said securely to exist. An inter-governmental and expert roundtable on this subject is planned for December 2002. UNHCR is also examining the feasibility of comprehensive plans of action for specific, irregular and secondary movement situations.

### D. Increased cooperation between UNHCR, IOM and other agencies

30. The Action Group on Asylum and Migration (AGAMI), first established in November 2001 in response to a Global Consultations recommendation that UNHCR and IOM reach better joint understanding of issues related to the asylum/migration nexus, has now met three times. An issue of mutual concern has been how to improve the availability, comprehensiveness and compatibility of data on migratory flows, especially clandestine movements. The absence of such data continued to be an obstacle to the development of adequate response mechanisms. UNHCR's participation in the July 2002 coordination meeting on international migration convened by the United Nations Population Division was directed at enhancing cooperation with other agencies in this regard. UNHCR is also strengthening its dialogue with other organizations on ways in which to contribute to the shared goal of better data collection and research on the nexus between asylum and migration. Other issues on the joint agenda have included research on the root causes of illegal migration, cooperation on information campaigns beyond the topics of trafficking and smuggling, and discussion of institutional roles and responsibilities to clarify how each institution views its mandate.

## IV. STRENGTHENED IMPLEMENTATION OF THE 1951 CONVENTION AND THE 1967 PROTOCOL

31. States reaffirmed their commitment to strengthened implementation of the 1951 Convention and the 1967 Protocol at the Ministerial Meeting, coorganized by the Swiss Government and UNHCR in Geneva, on 12 and 13 December 2001, to commemorate the fiftieth anniversary of the 1951 Convention. This meeting, the first gathering of States Parties to the Convention, agreed on a formal Declaration, which solemnly reaffirmed States' "commitment to implement [their] obligations under the 1951 Convention and/or its 1967 Protocol fully and effectively in accordance with the object and

purpose of these instruments". Some continue to question the continuing relevance of these instruments. This Declaration constitutes the significant and authoritative rebuttal to such questions. In recognizing the centrality of the Convention and Protocol, the Declaration also goes further in locating the Convention in today's complex and evolving environment and supports the future development of the regime. The Declaration is, in this regard, premised on more robust cooperation, albeit within the agreed basic framework.

## A. Accessions to the 1951 Convention and 1967 Protocol

32. The Agenda calls for more accessions to the 1951 Convention and 1967 Protocol. During the reporting period, the Republic of Moldova acceded to both instruments, Saint Kitts and Nevis to the 1951 Convention, and Ukraine to the 1967 Protocol. This brings the number of States party to the 1951 Convention and/or 1967 Protocol to 144. During the reporting period, Malta withdrew its geographical limitation, as well as a number of other reservations to the Convention.[10] For these States, as for all States Parties, implementation of the Convention and Protocol are of course crucial.

33. In regions where few States are party to these instruments - primarily South Asia and the Middle East - the low rate of accession is coupled with an absence of domestic asylum legislation. While there is a strong tradition of hospitality to displaced populations in these regions, the lack of a legal framework has meant that ad hoc approaches have continued to be adopted when dealing with refugees. As a result, those in need of international protection have often tended not to be identified properly, nor treated in a consistent manner, and the distinction between refugee and migrant has become blurred, possibly contributing to irregular movements of asylum-seekers and refugees. Accession to the international refugee instruments and the introduction of national asylum legislation therefore remain key challenges in these regions.

## B. Individual asylum procedures

34. Over the last 12 months, asylum legislation and procedures have been introduced for the first time in several Latin American, Central American and African countries, although refugee status determination was undertaken in an ad hoc manner in many other States in various regions. Where procedures have progressively been established, UNHCR has been able to hand over responsibility for refugee status determination to national authorities in several States. Training to assist the transfer has been provided by UNHCR and in some cases by the immigration services of a neighbouring country; in others, UNHCR has continued to sit in on eligibility interviews for a transitional period. Overall, governments were responsible for refugee status determination in nearly 60 per cent of countries receiving refugees; elsewhere UNHCR continued to undertake status determination directly under its mandate, sometimes in cooperation with local NGOs.

35. Where States have their own asylum procedures, revised legislation in some has strengthened protection, including by introducing safeguards against *refoulement*, removing time limits on access to the asylum procedure, and recognizing that the refugee definition encompasses persecution by non-State

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[10] See footnote 19 for accessions to statelessness conventions.

agents and gender-related persecution. In a number of European States, an independent second instance appeal has also been established. However, in other countries, the absence of an appeal on the merits of a claim weakens the credibility of the refugee determination procedure. In one country, new legislation provided for an appeal on the merits of a claim, but this part of the legislation was not implemented. A plethora of restrictive measures have strengthened barriers to admission and/or access to asylum procedures and international protection, for instance, by introducing or strengthening carrier sanctions, or reducing rights of appeal on the merits. In another country, outlying national territories were excised from the applicability of national asylum legislation, access to legal aid and judicial review of asylum decisions was curtailed, and temporary rather than permanent visas were issued even to recognized refugees if they arrived by unauthorized means with a resulting absence of family reunion rights and travel documentation. Restrictive measures were particularly evident in a number of countries which had seen a rise in electoral support for political parties expressing xenophobic views.

36. In a small number of States, the range of different circumstances recognized as requiring international protection has resulted in the introduction of a single procedure to assess such needs. For example, new Canadian legislation contains a consolidated protection definition with a single decision to assess claims for protection under the 1951 Convention, the 1984 Convention Against Torture, and other human rights instruments. A good practice to be noted in this case is the fact that a positive decision based on any of the grounds will lead to the granting of "protected person" status - a single status, based on 1951 Convention rights.

37. The prompt return of asylum-seekers found not to be in need of international protection through a full and fair procedure is widely recognized as fundamental to the credibility of the asylum system. Yet it has continued to present a considerable challenge for States, especially where the asylum-seeker lacks adequate identity papers to effect return. During the reporting period, the Council of Europe approved a number of documents setting out standards for expulsion in safety and dignity which are relevant to rejected asylum-seekers.[11]

### C. Exclusion of those undeserving of international refugee protection

38. The exclusion of those undeserving of international refugee protection has been an issue of concern for some time. In the aftermath of the attacks in the United States on 11 September 2001, security considerations have injected new urgency into such concerns and have permeated policy responses on a wide range of issues. Dealing with the terrorist threat in the context

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[11] See Council of Europe, Commissioner for Human Rights, "Recommendation Concerning the Rights of Aliens Wishing to Enter a Council of Europe Member State and the Enforcement of Expulsion Orders", CommHD/Rec(2001)1, 19 Sept. 2001; Council of Europe, Parliamentary Assembly, "Expulsion Procedures in Conformity with Human Rights and Enforced with Respect for Safety and Dignity", doc. 9196, report of 10 Sept. 2001; recommendation 1547 (2002) (same title), adopted 22 Jan. 2002. See also, *Conka* v. *Belgium*, European Court of Human Rights, decision of 5 Feb. 2002, concerning the methods used to secure the expulsion of rejected asylum-seekers.

of asylum does not, however, call for an amendment of the refuge definition, since provision is explicitly made for serious crimes to be excluded from refugee status under the 1951 Convention. UNHCR believes that a review and tightening of procedural and security measures may, however, be necessary.[12] In some countries, the formal incorporation of exclusion clauses into national legislation for the first time was a welcome development. UNHCR continued to advocate that the complexity of exclusion cases is a key reason for their examination to be maintained in the regular asylum procedure, or in the context of a specialized "exclusion unit", rather than at the admissibility stage or in accelerated procedures.

39. During the reporting period, various regional organizations adopted instruments to combat terrorism. These were welcomed insofar as they clarified the definition of terrorist offences, represented an agreed framework for national legislation, and enabled the closure of jurisdictional loopholes. UNHCR promoted the inclusion of precise definitions in such instruments and avoidance of any unwarranted linkages between asylum-seekers/refugees and terrorists. If definitions are too broad and vague, as has sometimes been the case, there is a risk that the "terrorist" label might be abused for political ends, for example to criminalize legitimate activities of political opponents, in a manner amounting to persecution.

## D. Harmonization of law and policy

40. One aim of the Global Consultations was to promote common or more harmonized understandings of refugee law and policy. As part of this process, UNHCR has been revising its own guidelines on a number of legal issues, not least as a result of the expert roundtables in the context of the second track of the Global Consultations. These are being issued pursuant to UNHCR's supervisory role under Article 35 of the 1951 Convention as a series of UNHCR Guidelines on International Protection.[13] They are intended to update and complement UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*, to provide guidance for governments, legal practitioners, the judiciary, and UNHCR staff carrying out refugee status determination in the field. The background papers written for the various expert roundtables held in 2001 have been updated and are to be published in mid-2003. UNHCR has also continued the expert roundtable format during 2002, with a meeting on rescue-at-sea held in Lisbon, Portugal, in March 2002[14] and one on religion-based refugee claims scheduled for October 2002, near Washington DC, United States. Further initiatives in the legal area, such as the drafting of legal instruments, will be explored as part of the follow-up to the Agenda for Protection.

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[12] See "Addressing Security Concerns without Undermining Refugee Protection - UNHCR's Perspective", Nov. 2001.

[13] The first two Guidelines on International Protection were issued in May 2002. See "Guidelines on International Protection: 'Membership of a Particular Social Group' within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees". HCR/GIP/02/02, 7 May 2002; "Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees". HCR/GIP/02/01, 7 May 2002, both available on <www.unhcr.ch>.

[14] See above, footnote 7.

41. In several regions of the world, States have been pursuing closer harmonization of their asylum policies and interpretation of key concepts of international refugee law. This process is furthest developed in Europe, where the 15 European Union member States made progress towards agreeing common minimum standards during the reporting period, approving, for instance, a Directive on the reception of asylum-seekers and framework decisions on trafficking and other issues.[15] Key directives still require adoption by member States. UNHCR welcomed the close consultation it shared and continues to direct its efforts towards ensuring that refugee protection standards are appropriately reflected. Elsewhere, UNHCR has worked with the six member States of the Mercosur in Latin America to promote the adoption of harmonized asylum legislation on the basis of a model law in Brazil. As one result, legislation was approved in Paraguay in mid-2002. On a smaller scale, national eligibility committee members from Malawi, Zambia, and Zimbabwe met for a third consecutive year to exchange experiences in the area of refugee status determination, thus promoting a more consistent approach.

42. More harmonized interpretation of key concepts of the 1951 Convention in different countries' jurisprudence has also been promoted through the systematic monitoring by UNHCR of asylum decisions and the Office's regular representations with national authorities and judiciaries. UNHCR has also sought to make more effective use of technology in this regard. In March 2002 the Spanish-language version of UNHCR's web site - a mirror of the English-language site - was relaunched. This constitutes one of the main sources of information in Spanish on refugee issues both in the Americas and world-wide. The Handbook for Parliamentarians of the Inter-parliamentary Union and UNHCR, which helps parliamentarians to become familiar with the general principles of international refugee law,[16] has now been translated into the five United Nations official languages, as well as into German, Hindi, Italian, and Japanese. Its translation into other languages is planned.

## E. Reception of asylum-seekers - Respect for refugees

43. A number of western European States took measures to enhance reception facilities.[17] The example of one State, which established for the first time a nationwide mechanism for the reception of asylum-seekers and integration of refugees on the basis of a memorandum of understanding between the government and UNHCR, was commendable. There were also positive developments in other parts of Europe. For example, in one central European country UNHCR concluded an agreement with the national border police to refurbish a reception centre, while the government approved two new reception centre sites. Healthcare, educational and other needs, particularly of children and other groups, continue to require special attention in such centres.

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[15] See Council Directive laying down minimum standards for the reception of asylum-seekers in member States, 17 June 2002 and footnote 9 above.

[16] Inter-Parliamentary Union and UNHCR, *Refugee Protection: A Guide to International Refugee Law*, Geneva, 2001.

[17] See "Reception of Asylum-Seekers, including Standards of Treatment, in the Context of Individual Asylum Systems". (EC/GC/01/17) Global Consultations, September 2001.

44. The majority of States remain able to manage their asylum systems without detaining asylum-seekers in any systematic way. Some have actively made use of alternatives to detention such as reporting and residency requirements, bonds, community supervision, or open centres. In some States where asylum-seekers were being detained, this practice was ameliorated, for instance, through the reduction in maximum detention periods permitted for asylum-seekers. New legislation in Canada stipulates that children shall be detained only as a last resort, and that the best interests of the child must be taken into account. These developments aside, however, the trend in some other countries was, regrettably, towards greater use of detention, particularly after 11 September 2001, sometimes on an apparently discriminatory basis, depending primarily on the country of origin. In several countries, all illegal entrants, including women and children, continued to be systematically detained, irrespective of increasing calls for such measures to be proportionate and less discriminatory. Where asylum-seekers were detained in a manner broadly inconsistent with Executive Committee conclusions, UNHCR sought to monitor detention facilities, secure access to legal advice for those detained, and promote alternatives to detention.

45. The necessary public support for the reception of asylum-seekers has continued to be hampered by the tendency of certain media and some politicians to mix illegal migration and refugee arrivals without sufficient clarification or concern for accuracy. Sometimes, asylum-seekers were demonized, especially during election campaigns. At such times, rhetoric, antagonism and verbal or even physical attacks, against asylum-seekers and refugees became particularly pronounced. UNHCR shared the view of those NGOs and other community leaders who responded with measures designed to show that asylum-seekers and refugees should not be made scapegoats for failed economic policies and that racism and xenophobia should not find a place in election campaigns. UNHCR's message on World Refugee Day in June 2002 was part of its efforts to project more positive images and focused on women refugees and the valuable contribution refugees make to host societies.

## F. Mass influx situations

46. The largest influx during the reporting period was experienced by countries neighbouring Afghanistan, following the military intervention in that country. In particular, over 200,000 Afghans reached Pakistan. Several neighbouring States formally maintained a closed border policy and considerable numbers were displaced within Afghanistan. UNHCR, the World Food Programme (WFP), other UN agencies, and NGOs mounted sizeable protection and relief operations under difficult security and logistical conditions.

47. Elsewhere, several countries in Africa, the Caucasus, and parts of South America experienced significant new influxes of refugees requiring emergency responses on the part of UNHCR. This emergency response capacity was also tested in south-eastern Europe when some 90,000 refugees fled The former Yugoslav Republic of Macedonia in the first part of 2001, before a peace accord was reached in August 2001, enabling the vast majority to return by the end of the year. In Africa, some 77,000 refugees had fled from Liberia as the situation there continued to deteriorate in the first half of 2002. There was also an influx into Cameroon of some 20,000 Nigerians fleeing

ethnic clashes in northern Nigeria in early 2002, presenting significant challenges in a country where UNHCR had been obliged to close its office at the end of 2001, due to funding constraints.

48. The need to give higher priority to strengthening registration, particularly in mass influx situations, was recognized by the Executive Committee in a Conclusion adopted in October 2001.[18] Positive developments were noted, including in several African States. Côte d'Ivoire enacted new legislation in early 2002, which recognized the refugee ID card and asylum-seeker certificate in use in the country as giving a right of residency and authorizing work; refugees were registered as a family unit but all family members over 14 years of age received a temporary card with a photo to ensure freedom of movement. In Togo, the Government began issuing refugee identity cards to replace existing UNHCR refugee certificates, while in the Democratic Republic of the Congo, where refugees had hitherto only had temporary UNHCR cards, a comprehensive registration exercise was embarked upon in mid-2002. Meanwhile, Zambia introduced new administrative procedures allowing urban refugees to regularize their stay in the country and protect them against arbitrary arrest and detention. Individual ID cards were also provided to women refugees.

49. Developments in other regions were mixed. In Latin America, the registration in Ecuador of those fleeing the civil strife in Colombia improved, but registration at the border did not take place in another Latin American country, and only selectively in one Central American State. In Mexico, new asylum procedures included a centralized registration system. Elsewhere, in south-eastern Europe, when large numbers of refugees from The former Yugoslav Republic of Macedonia arrived in Kosovo in the first half of 2001, they were swiftly registered in coordination with the United Nations Interim Administration Mission in Kosovo (UNMIK). UNHCR designed the registration database and data collection form, prepared the registration manual and provided training and technical support throughout. Refugees were registered individually and a re-registration process in 2002 provided all individuals with a photo identity card which facilitated their return.

50. In countries elsewhere, however, those without papers, notably urban refugees, continued to be vulnerable to mass roundups, arrest and deportations. Refugees in camps in some countries were not provided with identity documentation and had to confront arbitrary arrest, intimidation, extortion, denial of assistance and of access to basic civil and social rights. In a number of countries, lack of registration of births and marriages further compounded the plight of refugees, impacting negatively on nationality status.

## G. Addressing root causes - Statelessness

51. The importance of addressing the root causes of displacement, whether through conflict resolution or the fostering of human rights and democratic governance is widely recognized. Implementing such initiatives has, however, proven complex, not least because it often requires action by various actors, in particular those outside the humanitarian realm.

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[18] See Executive Committee Conclusion: "Registration of refugees and asylum-seekers" (2001) (A/AC.96/959, para. 23).

52. Among the issues which can prompt forced displacement is statelessness, or the inability to establish a legal status in any country. Very often minority groups in countries in different regions of the world have been among those affected, resulting in deprivation of basic rights. Women and children, in particular, have been disproportionately affected by problems of registering births or marriages, obtaining individual documentation, or where women have been unable to pass their legal status on to their stateless children or spouses. To address these and other issues, UNHCR has provided advice on drafting legislation, assisted in the resolution of individual cases, conducted surveys, for instance to assess numbers of people without identity or citizenship papers in specific situations, and undertaken a study on the causal relationship between the legal status of women and statelessness. Promoting accession to the international statelessness instruments has been an ongoing activity, aimed at fostering a functioning international legal framework in this area.[19]

## V. SHARING OF BURDENS AND RESPONSIBILITIES - CAPACITY BUILDING TO RECEIVE AND PROTECT REFUGEES

53. The Agenda for Protection calls for "closer dialogue and multilateral 'ownership' of refugee problems and their resolution". It stresses the importance of a multilateral approach to enable responsibilities and burdens to be shared more equitably, taking into account the widely differing capacities and resources of States, as is crucial to the viability of the international refugee protection system.

### A. Cooperation to strengthen protection capacities

54. Over the past year, efforts to strengthen protection capacities in refugee-hosting countries have ranged from improved functioning of decision-making processes within asylum procedures to assistance for human rights commissions and other civil society institutions, as well as for the judiciary and police forces.[20] Education and vocational training initiatives have variously targeted parliamentarians, judges, government officials, police officers, the media, NGOs, universities, and secondary schools.

55. Specific activities during the reporting period have included a refugee protection workshop for south Pacific States, the launch of a protection capacity building programme in the Asia region, a project to analyze protection capacities in selected African countries, and ongoing support to strengthen country of origin information networks in EU applicant States. At the global level, UNHCR continued to support the International Association of Refugee Law Judges in an expanding training programme for refugee law judges and decision-making officials in emerging countries of asylum. UNHCR is also in the process of drafting a Handbook on Strengthening Capacities in Host Countries for the Protection of Refugees, in cooperation with governments, NGOs, and refugees.

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[19] In the period mid-2001/2002, Hungary acceded to the 1954 Convention Relating to the Status of Stateless Persons, bringing the total of States parties to 54, while the Czech Republic, Guatemala, and Uruguay acceded to the 1961 Convention on the Reduction of Statelessness, bringing the total to 26 States parties.

[20] See "Strengthening Protection Capacities in Host Countries" (EC/GC/01/19, 19) Global Consultations, September 2001.

56. States have also engaged in very commendable capacity building activities. The Nordic countries have, for instance, continued cooperation with Baltic States, including through the "twinning" of Nordic civil servants with counterparts in Baltic States and more recently States further eastwards, in an effort to help build up their asylum determination and reception capacities. Other western European States and organizations have initiated similar capacity building and cross-border cooperation programmes with central and eastern European States, and with countries in the west of the Commonwealth of Independent States.

57. Within UNHCR, a new Protection Information Section was established as part of the Department of International Protection in December 2001, to fulfil some of the research, analysis and legal information functions previously undertaken by the former Centre for Documentation and Research. The protection learning programme (PLP) has served to create a stronger common understanding among staff of UNHCR's mandate for international protection and related international standards and to enhance their skills, knowledge and attitudes. Since PLP's launch on a pilot basis in mid-2000, some 270 staff working in over 85 countries have participated in the programme. The refugee status determination (RSD) project has also assisted UNHCR offices, and in some cases governments, in strengthening RSD procedures by providing legal advice and training, assistance with clearing backlogs of asylum claims, and developing minimum standards for UNHCR RSD procedures.

58. UNHCR has, in addition, strengthened two deployment schemes to enhance resettlement and protection capacities, respectively in cooperation with the International Catholic Migration Commission and the International Rescue Committee. Under the resettlement deployment scheme, 54 deployment positions in 2001 provided 282 months (23.5 person-years) of support to UNHCR resettlement activities in 38 field offices and in Geneva. Under the Protection Surge Capacity Project, which was launched at the end of 2001, over 20 people had been deployed by August 2002, to 11 countries in Africa, Asia, the Middle East, and the Pacific. They are assisting UNHCR in its protection work where internal protection staffing capacity is temporarily insufficient to cover all requirements, especially in situations where there are unexpected demands for protection staffing. The "Surge" project has been carefully crafted, with checks and balances built in to maintain confidentiality of sensitive protection information, and to ensure that UNHCR retains full control over its protection activities.

### B. Partnerships for protection with civil society, including NGOs

59. Establishing and strengthening links with NGOs and other civil society actors are key in many of the activities outlined above. In south-eastern Europe, for instance, UNHCR has established a strong network of international or local NGOs since 1995 to assist in the protection of refugees and returnees. Over the last year, the focus has been on capacity building in fund-raising techniques and on ensuring common standards of performance to enable local NGOs to sustain themselves after the scaling-down of UNHCR operations. In Latin America, support has been provided for the lawyers of implementing partner agencies in the region. UNHCR has also co-sponsored a migrant and refugee law clinic with two prominent human rights NGOs and a university in Argentina - the first such clinic in the region. In the

Caribbean, the existing honorary liaison network of volunteer advocates is being strengthened. Another example is Slovakia, where legal clinics have been established in two universities along with a legal counsellors' network, complementing others already existing in neighbouring States.

60. More generally, the "Reach Out" refugee protection training initiative targeted mid-level NGO and Red Cross staff and was spearheaded by international NGO networks together with the International Federation of the Red Cross and Red Crescent Societies (IFRC). During the first six months of 2002, some 110 NGO and Red Cross staff underwent "Reach Out" training in India, Senegal, Ethiopia and the Russian Federation.

## VI. REDOUBLING THE SEARCH FOR DURABLE SOLUTIONS

61. Timely and durable solutions are one of the principal goals of international protection and the Agenda for Protection recognizes the need for more coherence by integrating voluntary repatriation, local integration and resettlement, whenever feasible, into one comprehensive approach. For many refugees, their strongest hope is to return home and, over the last year, there have been some encouraging developments, which have permitted hundreds of thousands of refugees and IDPs to do so. At the same time, local integration efforts have been strengthened in a number of countries and resettlement has proven its multifaceted value in many situations, as part of more comprehensive approaches.

### A. Voluntary repatriation

62. Ensuring sustainable voluntary return is first and foremost the responsibility of the country of origin towards its own people, but it also requires coherent and sustained action and support from the international community.[21] The immediate focus of voluntary return operations is generally on the physical and material safety of refugees and the necessary security, political and legal framework to make this possible. For voluntary return to be sustainable, it needs to be underpinned by monitoring and longer-term reintegration measures, together with the re-establishment of national protection. The latter may be achieved in part through amnesty laws and their enforcement, the re-establishment of policing agencies which comply with human rights and an independent judiciary, as well as the resolution of citizenship, property, residency and documentation problems. Development agencies also need to become active in areas of return to help bridge the gap between relief and development, so that returnees can engage in productive activities and begin to rebuild their lives. One approach to bridging this gap has been summed up by the High Commissioner as involving the "Four Rs": Repatriation, Reintegration, Rehabilitation and Reconstruction.

63. The largest number of returns over the past 12 months has been to Afghanistan, following the establishment of an interim government in December 2001, and agreement to work towards constitutional and democratic elections. Among UNHCR actions during the crisis were provision of cross-border emergency assistance, later its broader involvement with IDPs inside the country, and the crafting of solution-oriented protection

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[21] See "Voluntary Repatriation", (EC/GC/02/5), Global Consultations, May 2002.

strategies for returnees, based on extensive district profiling drawing together information on security, economic, legal and other factors relevant to the viability of return and longer-term planning.

64. In the five months since 1 March 2002, when UNHCR began to facilitate voluntary returns from Pakistan, more than 1,300,000 refugees have returned from that country. In addition, 140,000 have returned from the Islamic Republic of Iran, 10,000 from other neighbouring States, while some 400,000 IDPs within Afghanistan have also gone back. Returns from the Islamic Republic of Iran were regulated by a tripartite voluntary repatriation agreement between Afghanistan, Iran and UNHCR, concluded in April 2002, and a similar agreement was under negotiation with Pakistan at the time of writing. UNHCR is also involved in policy formulation on returns from non-neighbouring countries. As outlined in section II.A above, the security situation remains uncertain, however, and humanitarian conditions are extremely precarious, with the challenges of recovery and rehabilitation enormous. There have been three discrete sets of protection challenges. One revolved around creating a protection framework for the operation, including through the establishment of tripartite repatriation arrangements which maintain asylum space while providing for return. Another involved settling policy issues on repatriation, reintegration and the handling of UNHCR's responsibility towards IDPs. The third involved responding to particular protection concerns, such as violation of minority rights in the north and west of the country, violence against women, conditions in certain camps, lack of access of children to basic services, and detention in the north. In the face of these and other challenges, long-term support from the international community and serious commitment to peace and reconstruction in the country both remain vital.

65. Other major developments included the return of some 173,000 refugees to Sierra Leone from neighbouring countries since early 2001, following the successful completion of the disarmament process by the United Nations Mission in Sierra Leone (UNAMSIL) and the official ending of the war. In Eritrea, more than 50,000 refugees returned from Sudan and neighbouring countries after many years in exile; more are expected to do so following the declaration of cessation of refugee status in respect of this refugee group. Some 11,000 refugees also returned voluntarily from Ethiopia to north-west Somalia in the 18 months to mid-2002. Although conflict remained unresolved in the Great Lakes Region of Africa, nearly 30,000 refugees returned to the northern provinces of Burundi, where the situation was relatively more secure. Most recently, some 20,000 Angolans have spontaneously returned to their country following the cease-fire agreed in April 2002. UNHCR is not planning to start facilitating voluntary repatriation for the majority of the remaining approximately 470,000 refugees until the beginning of 2003, given the serious logistical and assistance challenges involved, and the need to plan for reintegration.

66. Voluntary repatriation operations, large or small, have generally been based on tripartite arrangements between UNHCR, the host country and the country of origin. These allow for more coordinated management of returns and enable ongoing monitoring and reintegration efforts. In Asia, some 213,000 refugees had been assisted to return voluntarily by the time East Timor achieved independence. A peace accord in one south Asian country long beset by civil war has also led to the spontaneous return of an estimated

100,000 IDPs to their homes since the beginning of 2002. UNHCR has been engaged in returnee monitoring, providing assistance to the most vulnerable, and undertaking the registration of all IDPs in the country.

67. In south-eastern Europe, initiatives in the south of the Federal Republic of Yugoslavia, such as the creation of a multi-ethnic police force, have helped curb new outbreaks of violence and foster conditions conducive to return. In The former Yugoslav Republic of Macedonia, European monitors, the North Atlantic Treaty Organization (NATO) and UNHCR have been instrumental in rebuilding confidence between communities and assisting the return of the majority of the 170,000 displaced earlier in the year. Similarly, in Bosnia and Herzegovina and in Croatia, some 100,000 refugees and IDPs have been able to go home, although there are still over 800,000 people from these countries who have not been able to return to their former homes.

68. Among the issues which can undermine the success of voluntary repatriation if left too long unattended are housing, property and land restitution problems. If refugees are not able to recover their homes and property in the country of origin or gain compensation for their loss, they may be unable to return or not able to do so sustainably. UNHCR and its partners have focused particular attention on these issues in south-eastern Europe, where conflict and displacement have meant that citizenship cannot always be proved, and/or the individual concerned may not have residency records. UNHCR has sought to ensure that local authorities implement property laws and assist with the reconstruction of properties destroyed by war. It has encouraged giving priority to vulnerable families, including female-headed households, when granting reconstruction assistance, and has promoted the rights of women and children to property, even if it was previously held in the husband's or parent's name.[22]

## B. Local integration and self-reliance

69. Within the context of the Global Consultations, UNHCR has advocated more active promotion of both local integration and self-reliance.[23] The former represents one of the three durable solutions available to refugees. The latter does not presuppose that refugees will remain in the country of asylum, but is a precursor to any of the three solutions.

70. One initiative encompassing both these approaches launched in southern Africa during the reporting period was the Zambia initiative. It adopts a holistic approach aimed at linking development with relief assistance and addressing both the needs of refugees and the host population. The Government's pilot programme has focussed on an under-developed province hosting a refugee population of some 150,000. Supported by UNHCR and several donors, the initiative has been managed by the community itself. Refugees are viewed as "agents of development" who can contribute to the local economy. Many refugees in the country have been allocated enough land to enable them to produce and export sweet potatoes, thus bringing in foreign currency.

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[22] Sub-Commission on the Promotion and Protection of Human Rights, "Resolution on housing and property restitution in the context of refugees and other displaced persons", E/CN.4/SUB.2/RES/202/7, 14 August 2002.

[23] See "Local Integration" (EC/GC/02/6) Global Consultations, May 2002.

71. A key consideration for the host country in connection with local integration is when and how to facilitate access to citizenship. One example of good State practice was provided by Mexico, which issued over 1,000 land property titles to naturalized former refugees, granted citizenship to more than 1,000 longstanding refugees, and planned to naturalize a further 4,000 over the ensuing two to three years. In another positive example, the Federal Republic of Yugoslavia, cooperating closely with UNHCR, amended its legislation to permit dual citizenship.

## C. Resettlement

72. Resettlement is a key element of comprehensive strategies to resolve refugee situations and can represent a tangible expression of international solidarity. It is also a vital protection tool in a number of situations, addressing the special needs of victims of trauma and those of refugees facing serious protection problems in countries of first asylum.[24] Resettlement operates as an important durable solution not only once peace is restored and the majority of refugees can return home, but also in protracted situations where refugees can neither repatriate safely nor integrate locally.

73. In 2001, a total of around 33,100 refugees were resettled under UNHCR auspices, about one third of the total number of refugees resettled worldwide. Twenty-five countries received resettled refugees, although just ten accounted for 98 per cent of resettlement arrivals. However, even if the numbers received may be limited, as for instance in emerging resettlement countries in Latin America or Africa, an important message of commitment is conveyed to host countries and countries of origin absorbing large numbers of fleeing or returning refugees. The tendency in established resettlement countries has been to maintain quotas, although programmes in several countries were stalled for several months after 11 September 2001, as new security requirements were introduced with the result that quotas for the year were not filled.

74. Expanding the number of resettlement countries has remained a challenge. Strategies pursued by UNHCR have included measures to consolidate emerging resettlement country programmes through twinning projects, and putting more human and financial resources into capacity-building. New resettlement programmes have been actively promoted in countries deemed to have sufficient capacity, including in some European countries. In this respect, the support and expertise of traditional resettlement countries and of NGOs remain vital. UNHCR, together with a number of governments and NGOs, has cooperated in the production of a Handbook to Guide the Integration of Resettled Refugees.[25]

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[24] See UNHCR's updated Resettlement Handbook issued July 2002; "Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities" (EC/GC/02/7), Global Consultations, May 2002.

[25] UNHCR, "Pathways to Welcoming and Rebuilding: A Handbook to Guide Reception and Integration of Resettled Refugees", June 2002 draft for review, available on <www.unhcr.ch>.

75. UNHCR has also continued efforts to minimize the potential for resettlement fraud, including by reinforcing management responsibilities, devising new tools and expanding training arrangements. The organization has, moreover, focused new attention on the unique circumstances and resettlement needs of *prima facie* refugees. Expending the potential of resettlement as a tool of protection and as a durable solution remains a key priority for UNHCR.

## VII. MEETING THE PROTECTION NEEDS OF REFUGEE WOMEN AND REFUGEE CHILDREN

76. The protection of refugee women and refugee children is identified by the Agenda for Protection as both a core activity and an organizational priority for UNHCR. Although a whole range of international norms, policies and guidelines have been developed, there is a gap in their application and implementation, partly as a result of resource constraints, but also because of uneven priorities and accountability both at the level of institutions and within the international community.[26]

77. Many of the most salient protection concerns facing refugee women and refugee children today are outlined earlier in this Note. Such concerns include safety and security, sexual exploitation and violence; equal access to humanitarian assistance; registration and documentation; the gender and age-sensitive application of refugee law and procedures; and trafficking. In relation to refugee children, particular concerns include separation, military recruitment, access to asylum procedures, education, and detention. This section looks at those issues not already covered above.

### A. Refugee women

78. In December 2001, the High Commissioner made "five commitments" to improve the protection of refugee women and girls. These goals are articulated in practical and measurable terms and provide a clear focus for UNHCR's work.

79. The first commitment is to encourage active participation of women in all refugee community management and leadership committees, the target being 50 per cent female representation on such committees. UNHCR actions to this end have included work with refugee women to build leadership skills, initiatives to enhance education and vocational training, and work with refugee men to encourage women to stand for election. By way of positive example, activities to enhance the leadership skills of indigenous displaced women in Colombia have been particularly effective. UNHCR initiatives have also included assistance in establishing refugee women's councils in Bulgaria and Belarus, while this year the Kosovo Women's Initiative has worked with local women's councils to involve women in return communities and promote reconciliation and peaceful coexistence.

80. The second commitment to provide individual registration documents for all refugee women and men can be challenging at a time of financial constraint and in the face of traditional roles of men as heads of household.

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[26] See also "Refugee Women" (EC/GC/02/8); and "Refugee Children" (EC/GC/02/9), Global Consultations, May 2002.

Noteworthy UNHCR projects over the last year have included the issue of individual identification cards to urban refugees in Zambia and the Central African Republic, while in Burundi women were enabled to request their own cards. In the Middle East, Egypt was, for example, one State providing individual registration documents and efforts were underway to improve the situation in other countries in the region.

81. Measures to respond to the third commitment to strengthen efforts to prevent and respond to sexual and gender-based violence in refugee situations are outlined in section II.C above. The fourth commitment, to ensure refugee women's participation in the management and distribution of food and other aid, is an important strategy to empower women and prevent sexual exploitation. Despite major constraints, such as traditional cultural beliefs about the role of women and already onerous workloads, refugee women around the world regularly participated in distribution of supplies. For their part, WFP and UNHCR reconfirmed their commitment to empowering women through food distribution in a revised memorandum of understanding.

82. Implementation of the fifth commitment to provide sanitary materials to all women and girls in all UNHCR assistance programmes focused increased attention on this issue. For example, UNHCR has, taken initiatives in African and Asian countries to purchase materials, which women then converted them into sanitary packs, in the context of income-generation and self-help activities.

83. Within UNHCR, training opportunities for staff have been improved by tailoring "people-oriented planning" materials to specific refugee situations. In addition, a UNHCR training kit on the gender perspective on refugee protection, completed in June 2002, brings together core documents on gender mainstreaming and comprehensive training materials, while the Protection Learning Programme also mainstreams gender and age perspectives with a particular focus on sexual and gender-based violence.

## B. Refugee children

84. Essential to any action on behalf of refugee children is the promotion and protection of the best interests of children. Issues concerning the trafficking of girls, the military recruitment of adolescents and children, and sexual violence and exploitation of children are outlined above. This section looks briefly at concerns not yet covered, namely education and the treatment of separated children.

85. More generally, the May 2002 independent evaluation mentioned in section II.C above found that the organization's policies and guidelines on refugee children are strong, with some good examples of work with refugee children. They included, for instance, work in the United Republic of Tanzania to address some of the more complex issues related to child-headed households, separated children, unattended young girls, socio-cultural beliefs about HIV/AIDS, and the impact of ration cuts. It nevertheless also found that children were "often overlooked and considered 'on-the-sidelines' of core protection and assistance work and that organizational issues impeded implementation.[27]

[27] See footnote 3 above.

86. Approximately one million refugee children and adolescents are enrolled in UNHCR-supported education programmes, of whom approximately 40 per cent are girls and young women. Of those enrolled, eight per cent are in pre-school, 82 per cent in primary, nine per cent in secondary and one per cent in tertiary education programmes. United Nations agencies have continued to promote increased access to education, both as a fundamental human right and a means of reducing the risk of military recruitment, forced labour and prostitution among refugee children. Meeting the educational needs of child-headed households, children affected by HIV/AIDS and orphans has presented particular challenges, as has the provision of emergency education and secondary education. The transition from education in refugee camps to integration into national schools has also been an issue. One approach adopted, for example in Côte d'Ivoire, involved UNHCR negotiating a memorandum of understanding on this issue and assisting with the construction of new schools in areas with high refugee populations.

87. The issue of separated children has been of growing concern in recent years, since such children are particularly vulnerable to sexual exploitation and abuse, military recruitment, child labour, denial of access to education and basic assistance, and can be particularly traumatized by detention. To help reunite children with their families, UNHCR has in cooperation with UNICEF, the International Committee of the Red Cross (ICRC) and specialized NGOs, strengthened measures to trace and reunify separated children by improving coordination, the accuracy of databases, and using tools such as "photo tracing albums" and radio broadcasts.

88. In Europe, action taken as part of the Separated Children in Europe Programme, a joint initiative with the International Save the Children Alliance, has resulted in the adoption of asylum legislation in certain central and eastern European countries, which includes specific provisions to ensure the protection of separated children seeking asylum. In western Europe, increased arrivals of separated minor children in Ireland led, for instance, to an informal agreement among all parties involved on special procedures for processing the asylum claims of such children, which were partially formalized in interim guidelines issued in late 2001. Another example is Austria, where arrangements were put in place as regards the care and maintenance of separated child asylum-seekers so that they can initially be accommodated in clearing houses for three months, until a proper solution can be found. Elsewhere, new legislation in New Zealand, expressly provided for the needs of unaccompanied minors who may seek asylum. In Canada, a roundtable in October 2001 on the situation of separated asylum-seeking children brought together federal and provincial authorities, child welfare agencies, refugee and child protection advocates and legal practitioners, and identified helpful approaches to filling gaps in the provision of protection and care.

## VIII. CONCLUSION

89. The foregoing description of problems, responses and positive advances is by no means exhaustive. Developments have been reported selectively, by way of example. It does, however, provide a useful overview of the range of challenges today confronting refugee protection and the implementation of the 1951 Convention regime as an important part thereof. The goals and objectives

of the Agenda for Protection were chosen as the frame within which to present this analysis in order to underline the direct relevance of the Agenda to proper and principled management of refugee and asylum dilemmas today.

90. Where, for example, it encourages prevention of age-based and sexual and gender-based violence, or very concrete measures to empower refugee communities for their own protection, it responds, not alone but not least, to the harsh experiences of women and girls in the camps in West Africa. Where it calls for greater respect for the civilian character of asylum and sets the objective of clarifying standards and procedures - while improving cooperation to achieve this - it is responding, for example, to the militarization of camps in many parts of the world, which endangers the lives of their inhabitants and the surrounding community.

91. The Agenda's encouragement to strengthen protection capacities at the national level or build burden and responsibility-sharing into more comprehensive approaches, reflects the very real inequalities marking assistance and protection levels among States, in the developed and the developing world. Where the Agenda strives to promote understandings on protection safeguards in rescue-at-sea, this serves to buttress a time-honoured tradition which came under threat during the reporting period. The ideas in the Agenda for promoting consolidated and better harmonized asylum procedures, and for strengthening asylum systems generally, are partly in response to the reality of their abuse by some, to cumbersome procedures in place in a number of countries, and to the need to identify quickly those who are in need of international protection and those who are not. The Agenda's focus on strengthening the search for durable solutions and on improving the planning and implementation of repatriation programmes must be seen in the context of programmes like the Afghan or Ethiopian operations. It is securing commitment to the progressive and effective implementation of the Agenda that is now the challenge.